

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 05-10234-RWZ
)	
MICHELLE CARVALHO)	

DEFENDANT'S SENTENCING MEMORANDUM

Defendant, Michelle Carvalho, respectfully requests that the Court sentence her to 71 days in custody, the time she has already spent in detention for the instant offense. She faces release to an Immigration and Customs Enforcement ("ICE") detainer; she will remain in ICE custody until deportation to her native Brazil. The Court should not impose a fine as there is no reasonable prospect that she will be able to pay a fine.

Ms. Carvalho, who is just 22 years-old, is the mother of a three year-old daughter. Her daughter currently lives with her mother in Brazil and, up to her arrest in the instant matter, Ms. Carvalho spoke with her every other day. PSR ¶¶57-59. Her relationship with her daughter's father deteriorated shortly after she gave birth to her daughter. This, combined with the lack of any employment prospects in the rural section of Brazil where she lived, resulted in severe financial pressure on her. In May, 2003, she paid the equivalent of \$4,451 to travel illegally to the United States in order to provide her daughter with "a better future." PSR ¶60.

Her harrowing (and nearly fatal) crossing into the United States, at age 19, is set forth in detail in ¶¶ 60-63 of the report. Although she showed motivation to work once she finally arrived in the Boston area, her circumstances improved only slightly in the little more than two years she spent in the United States before her arrest. As an undocumented alien, she was relegated to cleaning houses, babysitting, and waitressing. ¶¶83-86. She moved from apartment to apartment in order to seek the most economical living conditions. She sent the bulk of her earnings to Brazil for the support of her daughter.

About three months before her arrest in this matter, Ms. Carvalho moved into an apartment at 30 Upham St. in Malden. Also living there was a man named Alexandre Bartoski, who was involved in, inter alia, producing false identification documents. Regrettably, Ms. Carvalho accepted his offer to make money by assisting him in producing and selling the documents. Ms. Carvalho's stunningly bad judgment was revealed when, at the same time she moved into the apartment, ICE began an investigation into Mr. Bartoski's activities; an informant, seeking Alex, instead reached Ms. Carvalho who produced a series of documents for him. She was taken into custody when an arrest and search warrant were executed on August 17, 2005.

Defendant submits that the nature and circumstances of the offense, although serious, are ameliorated by Ms. Carvalho's

history and characteristics. The advisory sentencing range calculated by the Probation Office, 10-16 months, would ordinarily allow the Court to sentence Ms. Carvalho to as low as five months incarceration. See U.S.S.G. § 5C1.1(c)(2) (providing for split sentences where the sentencing guideline range falls in Zone C of the sentencing table). Ms. Carvalho will suffer the additional collateral consequences of a permanent bar from the United States and an unknown period of additional incarceration by ICE. Where Ms. Carvalho's one and only goal in life now is to return to Brazil to care for her daughter, a sentence of time served - only modestly below the applicable sentencing range - is "sufficient, but not greater than necessary" to achieve the goals of sentencing.

MICHELLE CARVALHO
By her attorney,

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